REMARKS/ARGUMENTS

The Office is requiring restriction under 35 U.S.C.§ 121 as follows:

Group I: Claims 51 and 59, drawn to a composition comprising lineage committed dendritic cells, wherein said cells are antigen primed dendritic cells;

Group II: Claims 52 and 60 drawn to a composition comprising lineage committed dendritic cells, wherein said cells are myeloid derived dendritic cells;

Group III: Claims 53-61 drawn to a composition comprising lineage committed dendritic cells, wherein said cells are non-myeloid derived dendritic cells;

Group IV: Claims 67 and 75 drawn to a method for treating a human patient in need of an infusion of lineage committed dendritic cells comprising administering a composition of lineage committed dendritic cells, wherein said cells are antigen primed dendritic cells;

Group V: Claims 68 and 76 drawn to a method for treating a human patient in need of an infusion of lineage committed dendritic cells comprising administering a composition of lineage committed dendritic cells, wherein said cells are myeloid derived dendritic cells; and

Group VI: Claims 69 and 77 drawn to a method for treating a human patient in need of an infusion of lineage committed dendritic cells comprising administering a composition of lineage committed dendritic cells, wherein said cells are non-myeloid dendritic cells.

Group I has been elected, with traverse.

Applicants request that once the elected claims are allowable, rejoinder of the corresponding non-elected process claims (MPEP §821.04[1]).

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

[1] "where the application as originally filed discloses the product and the process for making and/or using the product, and only claims directed to the product are presented for examination, when a product claim is found allowable, applicant may present claims directed to the process of making and/or using the patentable product."

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups. In fact, each of Groups I-III are classified in the same class and subclass. In addition, it is noted that in the parent application, claims directed to dendritic cells, including antigen primed, myeloid and non-myeloid derived were examined and allowed in a single application (see U.S. patent no. 6,835,566). Thus, restriction between Groups I, II and III is improper as the patent office has already determined that the claims of these three groups are suitably linked to warrant concurrent examination.

Further, Applicants respectfully traverse the Restriction Requirement on the grounds that the Office has not shown that a burden exist in searching all of the claims. Unquestionably, the Office cannot now take the position that it would be burdensome to examine Groups I, II and III together when the Office has already done so in the parent application, again referring to the claims issued in U.S. patent no. 6,835,566.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

An action on the merits is requested.

Respectfully submitted,

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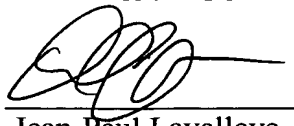

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